

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

IN RE TRICOR INDIRECT PURCHASER
ANTITRUST LITIGATION

C.A. No. 05-360 (KAJ)
(consolidated)

THIS DOCUMENT RELATES TO:

PAINTERS' DISTRICT COUNCIL NO.30
HEALTH AND WELFARE FUND and
RICHARD G. WILDE, C.A. No. 05-360 (KAJ)

VISTA HEALTH PLAN, INC. and ROSS LOVE,
C.A. No. 05-365 (KAJ)

PENNSYLVANIA EMPLOYEES BENEFIT
TRUST FUND, C.A. No. 05-390 (KAJ)

ALLIED SERVICES DIVISION WELFARE
FUND and HECTOR VALDES,
C.A. No. 05-394 (KAJ)

DIANA KIM, C.A. No. 05-426 (KAJ)

ELAINE M. PULLMAN, NEIL PERLMUTTER,
HELENA PERLMUTTER and LULA RAMSEY,
C.A. No. 05-450 (KAJ)

PHILADELPHIA FEDERATION OF TEACHERS)
HEALTH AND WELFARE FUND,
C.A. No. 05-467 (KAJ)

CINDY CRONIN, C.A. No. 05 482 (KAJ)

CHARLES SHAIN and SANDRA KRONE,
C.A. No. 05-475 (KAJ)

LOCAL 28 SHEET METAL WORKERS,
C.A. No. 05-516 (KAJ)

ALBERTO LITTER, C.A. No. 05-695 (KAJ)

**DECLARATION OF CHRISTOPHER J. MCDONALD IN SUPPORT OF
END-PAYOR PLAINTIFFS' MOTION FOR CLASS CERTIFICATION**

CHRISTOPHER J. McDONALD hereby declares as follows:

1. I am a member of the bars of the State of New York and the Southern and Eastern Districts of New York. I have also been admitted to appear *pro hac vice* before this Court in the above-captioned action. I am an attorney with the firm Labaton Sucharow & Rudoff LLP, which has been designated as co-lead counsel for Indirect Purchaser Plaintiffs ("End-Payor Plaintiffs"). I submit this declaration in support of End-Payor Plaintiffs' Motion For Class Certification (the "Motion"). I have personal knowledge of the facts set forth herein and, if called as a witness, I could competently testify to the matters set forth herein.

2. In support of the Motion, End-Payor Plaintiffs have retained Dr. Charles King III, an economist specializing in microeconomics, industrial organizations, marketing and econometrics, as an expert witness. Dr. King's expert declaration (the "King Report") is annexed as Exhibit 1. The King Report makes reference to, *inter alia*, documents, or excerpts of documents, that have been produced in discovery in the *TriCor Antitrust Litigation*. Annexed hereto as Exhibits 2 through 28 are true and correct copies of the 27 discovery documents cited in the King Report. Table One, on the following page, lists these materials in the order in which they first appear in the King Report; Table Two, on the page thereafter, cross references by footnote each time a document listed in Table One is cited in the King Report:

Table One Discovery Documents Cited in King Report		
Exhibit No.	King Report First Reference	Bates Range ¹
2	Page 11, n. 27	ABBOTT_TRICOR00000111-117
3	Page 11, n. 27	ABBOTT_TRICOR00052020
4	Page 11, n. 30	ABBOTT_TRICOR00042407-484
5	Page 12, n. 31	ABBOTT_TRICOR00057031-070
6	Page 12, n. 33	ABBOTT_TRICOR00000717-720
7	Page 15, n. 34	ABBOTT_TRICOR00248448-490
8	Page 15, n. 37	ABBOTT_TRICOR00000232-244
9	Page 22, n. 63	ABBOTT_TRICOR00016561-650
10	Page 27, n. 73	ABBOTT_TRICOR00001197-213
11	Page 34, n. 91	ABBOTT_TRICOR00000929-934
12	Page 34, n. 91	ABBOTT_TRICOR00000896-907
13	Page 34, n. 91	ABBOTT_TRICOR00086863-864
14	Page 34, n. 93	FOURNIER/FTC0000106-156
15	Page 34, n. 93	ABBOTT_TRICOR00000908-921
16	Page 34, n. 93	ABBOTT_TRICOR00001267-272
17	Page 34, n. 93	ABBOTT_TRICOR00057203-216
18	Page 34, n. 93	ABBOTT_TRICOR00250437-499
19	Page 34, n. 93	ABBOTT_TRICOR00005802-851
20	Page 34, n. 93	ABBOTT_TRICOR00006414-448
21	Page 34, n. 93	ABBOTT_TRICOR00005633-658
22	Page 34, n. 94	IMPAX000172-179
23	Page 34, n. 94	IMPAX000080-087
24	Page 34, n. 94	IMPAX000156-163
25	Page 34, n. 94	IMPAX000337-352
26	Page 34, n. 94	IMPAX000687-702
27	Page 34, n. 94	IMPAX000196-207
28	Page 34, n. 95	Teva-TriCor158309-310

¹ Many of the documents Defendants produced in this action were also provided to the Federal Trade Commission in connection with its investigation of whether Defendants engaged in unfair methods of competition in violation of Section 5 of the Federal Trade Commission Act with respect to the marketing of TriCor. As a result, many produced documents have more than one set of Bates ranges. End-Payor Plaintiffs and Dr. King refer solely to the Bates ranges associated with this action for purposes of identifying such documents.

Table Two Exhibit Citations in King Report				
Footnote No.	Exhibit Nos.		Footnote No.	Exhibit Nos.
27	2, 3		93	9, 10, 14, 15, 16, 17, 18, 19, 20, 21
30	4		94	22, 23, 24, 25, 26, 27
31	5		95	28
33	6		96	12, 22, 23, 24, 25, 26, 27
34	6,7		97	22, 23, 24, 25, 26, 27
37	8		98	9, 10, 14, 15, 16, 17, 22, 23, 24, 25, 26, 27
50	7		99	11, 12, 13
63	9		100	9
65	9		101	12
67	3		102	11, 12, 13
71	2		103	9, 10, 14, 15, 16
73	10		104	24
76	6		107	9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27
86	10		111	4, 9
91	11, 12, 13		120	6, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28

3. Also annexed hereto are true and correct copies of the following documents:

Exhibit No.	Title (where applicable)	Bates Range (where applicable)
29	REDACTED	TRICOR000260-266
30		ABBOTT_TRICOR00086959-976
31		FOURNIER/FTC0005517-540
32		FOURNIER/FTC 0004449-454
33		ABBOTT_TRICOR00090958-984
34		ABBOTT_TRICOR00084977
35		ABBOTT_TRICOR0000739-764
36		ABBOTT_TRICOR00122165-169
37		ABBOTT_TRICOR00001273-276
38		ABBOTT_TRICOR00000007-062
39		ABBOTT_TRICOR00000768-779
40		ABBOTT_TRICOR00236508-526
41		ABBOTT_TRICOR00069502-516
42		ABBOTT_TRICOR00074957-973
43		ABBOTT_TRICOR00089733-757
44		ABBOTT_TRICOR00086863-864
45		ABBOTT_TRICOR00066593-608
46	Top 200 Brand-Name Rx Drugs from the 2003 Red Book, the 2004 Red Book and the 2005 Red Book (published by Thompson PDR at Montvale, NJ 07645-1742)	
47	REDACTED	ABBOTT_TRICOR00095610-611

4. Exhibit 48, which is included separately, consists of three tables generated by Co-Lead Counsel analyzing state law, as follows:

Tab	Title
A	<i>Twenty-Three Jurisdiction Survey of Statutory Claims for Indirect Purchaser Recovery of Damages for Antitrust Injuries</i>
B	<i>Fifty-One Jurisdiction Survey of State Unjust Enrichment Law</i>
C	<i>Forty-Three Jurisdiction Survey of State Consumer Protection Statutes</i>
D	Unreported cases cited in Exhibit 48, Tabs A-C

5. End-Payor Plaintiffs have received roughly 2 million pages of documents in discovery thus far, most of which have been produced on CDs and DVDs. Within the last eight weeks, End-Payor Plaintiffs have received over 20 disks, more than half of which were produced by Defendants.

This declaration is executed at New York, New York, May 8, 2006, under penalties of perjury pursuant to the laws of the United States.

/s/ Christopher J. McDonald